

December 27, 2019

VIA ECF

The Honorable Robert W. Lehrburger
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1960
New York, New York 10007-1312

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Re: *In re Namenda Indirect Purchaser Antitrust Litigation*, Case No. 15-cv-06549-CM-RWL (SBF Action) (S.D.N.Y.)

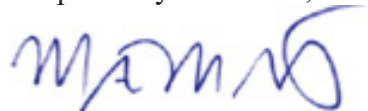
Dear Judge Lehrburger:

The Forest and Merz Defendants (collectively, “Brand Defendants”) submit this letter to seek the Court’s guidance regarding its December 16, 2019 Order. ECF No. 322. The Court’s order unambiguously directed SBA to “*provide Defendants with an updated disclosure*” identifying their proposed deposition topics with greater particularity. *Id.* at ¶¶ 1, 3 (emphasis added). Nevertheless, SBA improperly filed a six-page letter brief on the docket seemingly in further support of its motion to compel rather than as an “updated disclosure.” ECF No. 333.

The Court’s Order further provides that by December 30, 2019, Brand Defendants “shall provide a written response *to Plaintiff*.” ECF No. 322 at ¶ 3 (emphasis added). Thus, unless otherwise instructed, Brand Defendants intend to serve their written objections on SBA in compliance with the Order. Brand Defendants do not intend to file the objections on the docket. To the extent the parties are unable to resolve the issues during the in-person meet and confer ordered by Your Honor to take place by January 7, 2020, further briefing will follow in January as the Court directed. ECF No. 322.

Additionally, on November 5, 2019, Forest submitted a letter motion seeking relief for deficiencies in SBA’s responses to Forest’s First Set of Requests for Admission. ECF No. 296. SBA responded to Forest’s motion on November 13, 2019 (ECF No. 298) and Forest filed its reply on November 14, 2019 (ECF No. 299). As the Court is aware, while this motion was pending, Judge McMahon entered an order vacating the August 1, 2019 stipulated scheduling order and placing this case on a “rocket docket” expedited, multi-track discovery schedule.” ECF No. 311. In light of the new expedited scheduling order, Forest respectfully requests the Court’s consideration of Forest’s motion given the limited window for additional fact discovery.

Respectfully submitted,



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cc: All counsel of record (via ECF)